



DEPARTMENT OF THE NAVY  
NAVAL FACILITIES ENGINEERING COMMAND, MARIANAS  
PSC 455, BOX 195  
FPO AP 96540-2937

IN REPLY REFER TO:  
5720  
Ser 00/304  
23 Dec 16

John M. Camacho  
233 Pangelinan Way  
Barrigada, GU 96931

Dear Mr. Camacho:

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUEST 17-002

This letter responds to your Freedom of Information Act (FOIA) request dated November 29, 2016, in which you seek a copy of any and all documents related to the Redhorse Cantonment Facility Project, between Pacific West Builder's (PWB) and NAVFAC Marianas. On December 9, 2016, your FOIA request was perfected when you narrowed your request to correspondences directly related to PWB's "false claim" notice within the last two months. Your perfected FOIA request was assigned file number 17-002.

We have reviewed the enclosed documents, which are responsive to your request, and they are released to you in their entirety.

The fees incurred to process your request amounts to forty four dollars (\$44.00) for search and review. Please forward a check or money order, payable to the "Treasurer of the United States" for the stated amount, to the address stated above and to the attention of Ms. Eileen Sanchez, Comptroller Office, within 30 calendar days from the date of this correspondence. Please reference FOIA file number 17-002 with your remittance.

Should you have questions regarding the action this office took, you may contact the DoD Navy Component FOIA Public Liaison, Mr. Chris Julka, at (703) 697-0031 or via e-mail at christopher.a.julka@navy.mil

Further questions concerning your FOIA request should be directed to Thomas Ngiratereged at (671) 333-2277 or via e-mail at thomas.ngiratereged@fe.navy.mil.

Sincerely,

W. R. LEBEAU  
Commander, Civil Engineer Corps, U.S. Navy  
By direction

- Enclosure 1. Email exchange between Navy and PWB Attorney  
2. PWB 15 Oct 16 letter to KO re. slab costs

**From:** [James R. Lance](#)  
**To:** [Smith, Brian S CIV OGC, NLO](#)  
**Subject:** [Non-DoD Source] RE: Appellant Patricia I. Romero, Inc. dba Pacific West Builders / ABSCA Docket # 60825  
**Date:** Wednesday, November 09, 2016 11:38:40 AM  
**Attachments:** [image931000.png](#)  
[image920001.png](#)

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Brian - PWB would like an additional extension through December 5, 2016 to file its Complaint and through December 12 to submit its R4 supplements. The reason for the request is that we have not yet received, but are expecting, further information and confirmation from a subcontractor about its pass-through claim. May we represent to the Appeals Board that you have no objection to the extensions? Thank you, Jim

Noonan Lance Boyer & Banach LLP JAMES R. LANCE  
PARTNER  
Noonan Lance Boyer & Banach LLP  
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San Diego, CA 92101  
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619-557-4416 <tel:619-557-4416>  
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-----Original Message-----

From: Smith, Brian S CIV OGC, NLO [<mailto:brian.s.smith@navy.mil>]  
Sent: Thursday, October 20, 2016 8:46 AM  
To: James R. Lance <[jlance@noonanlance.com](mailto:jlance@noonanlance.com)>  
Subject: RE: Appellant Patricia I. Romero, Inc. dba Pacific West Builders / ABSCA Docket # 60825

Jim,

Thanks for the information. I'll include the notice/letter in my R4 file, which I'll file by 10/28.

No problem with your request for extension on the Complaint. Ask/take as much time as you need.

VR,

Brian S. Smith  
Senior Trial Attorney  
Navy Litigation Office  
General Counsel of the Navy  
720 Kennon Street SE  
WNY BLDG 36 Rm 233  
Washington, DC 20374 - 5013  
Ph. 202-685-2211

[Brian.S.Smith@navy.mil](mailto:Brian.S.Smith@navy.mil) <<mailto:Brian.S.Smith@navy.mil>>

-----Original Message-----

From: James R. Lance [<mailto:jlance@noonanlance.com> <<mailto:jlance@noonanlance.com>> ]

Sent: Thursday, October 20, 2016 1:26 AM

To: Smith, Brian S CIV OGC, NLO

Subject: [Non-DoD Source] Appellant Patricia I. Romero, Inc. dba Pacific West Builders / ABSCA Docket # 60825

Brian - thank you for your email. First, please be assured that we will work cooperatively with you throughout the course of this matter. You may include the notification in your R4 file, or if you do not, we will include it in PWB's supplemental appeal file.

Enclosure (1)

Second, I provide some additional detail so you understand our dilemma. The issue was recently discovered during an in depth analysis of several different categories of documents. The issue is not apparent on the face of the submittals to PWB, which were verified by Dirt Doktor and resubmitted to the Government by PWB. Only the total dollar amount was listed by Dirt Doktor on the submittal through PWB. In order to discover this issue, we had to compare: (1) the daily reports which show what work was performed by which workers on a particular day; (2) the internal labor documents created by Dirt Doktor's subcontractor to determine the total labor charges broken down by day, worker, etc.; and (3) the Dirt Doktor submittal to PWB/Govt to determine how Dirt Doktor billed for that specific labor. When this discrepancy came to light, we felt it was important to inform you and the Appeals Board of this development at the same time it was disclosed to the federal judge presiding over pending litigation against Dirt Doktor in Guam. We notified the Board (and you) regarding this analysis because we were concerned that the information could impact the Appeal and result in a future adjustment in the claimed amount to the Government. The trial in the litigation in Guam has been continued so that this issue can be resolved as part of this appeal.

Given this development, and the fact that we plan to address it in our Complaint, PWB would like a brief two week extension to November 14, 2016, to file the Complaint. May we represent to the Appeals Board that you have no objection to a two week extension?

Please do not hesitate to contact me with any questions or concerns. Regards, Jim Lance

Noonan Lance Boyer & Banach LLP JAMES R. LANCE

PARTNER

Noonan Lance Boyer & Banach LLP

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<https://www.google.com/maps/place/701+Island+Avenue,+Suite+400,+San+Diego,+CA+92101+>>

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-----Original Message-----

From: Smith, Brian S CIV OGC, NLO [<mailto:brian.s.smith@navy.mil> <<mailto:brian.s.smith@navy.mil>> ]

Sent: Tuesday, October 18, 2016 11:31 AM

To: James R. Lance <[jlance@noonanlance.com](mailto:jlance@noonanlance.com)> <<mailto:jlance@noonanlance.com>>

Subject: RE: Appellant Patricia I. Romero, Inc. dba Pacific West Builders / ABSCA Docket # 60825

Jim,

I don't believe it's necessary or appropriate to file correspondence such as this directly with the ASBCA.

First, I'm currently preparing the Govt Appeal file so I could easily include it if you agree to work cooperatively and consult with me about such things beforehand.

Second, even if I don't include it in the Govt Appeal file, you're permitted to file a supplemental appeal file and could include this letter if you believe it's relevant to the appeal.

Third, it's not appropriate for Ms. Romero to be asking for meetings with the Contracting Officer about any aspect of this project/case. The matter is now in litigation, so all interactions between the parties (and their witnesses) should go through Counsel = you and me.

Finally, regarding the content of the letter, it doesn't actually affect PWB's claim at all. It's more of a notice that PWB's "further investigation" may cause a future adjustment/revision of the claimed amount. If and when PWB determines to actually revise the claimed amount, you and I can consult about how that can/should be documented in the litigation -- probably not via a letter from Ms. Romero to the Contracting Officer, filed with the ASBCA. Moreover, it's not my role to advise PWB on how to correctly support its claim, but perhaps when PWB files its ASBCA Complaint, you can ensure that the damages are more correctly stated (including an explanation of why it differs from the certified claim)? Some form of revised certification may be helpful as well. Alternatively, if you find that Dirt Doktor's costs are overstated or otherwise unreliable (i.e. PWB is not comfortable vouching for DD's costs), you may consider removing them entirely from the claim/case.

Regardless of the above, I commend you/PWB for taking steps to ensure that PWB's damages in this case are not overstated and do not include costs that are "not properly chargeable to the Government. . ." -- which is a serious matter. Prime contractors should always be very careful with certifying pass-through claims.

I'm sure we'll discuss this further as the case proceeds.

VR,

Brian S. Smith

Senior Trial Attorney

Navy Litigation Office

General Counsel of the Navy

720 Kennon Street SE

WNY BLDG 36 Rm 233

Washington, DC 20374 - 5013

Ph. 202-685-2211

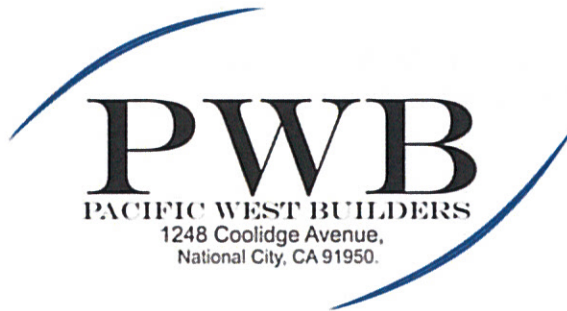
Brian.S.Smith@navy.mil <<mailto:Brian.S.Smith@navy.mil>> <<mailto:Brian.S.Smith@navy.mil>>>

[-----Original Message-----](#)

[From: James R. Lance \[mailto:\[jlance@noonanlance.com\]\(mailto:jlance@noonanlance.com\) <<mailto:jlance@noonanlance.com>> <<mailto:jlance@noonanlance.com%20%3cmmailto:jlance@noonanlance.com%3e%20>> \]](#)

Sent: Saturday, October 15, 2016 6:30 PM

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October 15, 2016

Vince Carbullido, Contracting Officer  
Naval Facilities Engineering Command Marianas  
PSC455, Box 195  
FPOAP 96540-2937

RE: DB Red Horse Cantonment Operations Facility  
Contract N40192-10-D-2810,  
Task Order 0003  
Andersen Air Force Base, Guam  
Department of the Navy; Naval Facilities Engineering Command Marianas

Dear Mr. Carbullido:

Pacific West Builders has information based on a recent audit of the pass-through claim submitted on behalf of subcontractor Dirt Doktor for extra-work related to removal and replacement of the concrete slab on grade. (See, Formal Claim dated January 29, 2016, section 4). A recent detailed audit of relevant data suggests that some of the work invoiced by Dirt Doktor is not properly chargeable to the Government for the extra slab work.

The Government previously agreed to credit \$368,511.03 for the extra slab work, to be offset against liquidated damages for delay, however as stated in its June 3, 2016 response to the Formal Claim, "the Government considered modification 4 open for both parties."

PWB is conducting further investigation into this matter and may adjust the amount requested from the Government in relation to the extra slab work to reflect the recent audit results. The underlying operative facts and the factual basis of PWB's Formal Claim in this regard remains unchanged. These allegations do not alter the nature of the Formal Claim. PWB respectfully requests the opportunity to discuss the issue with the Contracting Officer and/or the appropriate Government representative.

Sincerely,

A handwritten signature in blue ink that reads "Patricia I. Romero". The signature is fluid and cursive, with the first name "Patricia" being more prominent.

Patricia I. Romero, President  
Patricia I. Romero, Inc., dba Pacific West  
Builders

cc: John Aguon, Assistant Counsel at NAVFAC Marianas  
James Lance, Noonan Lance Boyer & Banach